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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213249
Party	Defendant Autentica Tequilera S.A. DE C.V.
Correspondence Address	LAWRENCE E ABELMAN ABELMAN FRAYNE & SCHWAB 666 3RD AVE NEW YORK, NY 10017-4011 UNITED STATES jabelman@lawabel.com
Submission	Answer
Filer's Name	Julianne Abelman
Filer's e-mail	ehalstead@lawabel.com,jabelman@lawabel.com
Signature	/JA/
Date	04/08/2014
Attachments	GALOPE Answer w Aff Def.pdf(78558 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

E. & J. GALLO WINERY,

*Opposer*

v.

AUTENTICA TEQUILERA S.A. DE C.V.,

*Applicant*

Opposition No. 91213249

Appln. No. 85/790557

Commissioner of Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION**

1. Applicant has insufficient information as to the allegations set forth in Paragraph 1 and therefore denies same.
2. Applicant has insufficient information as to the allegations set forth in Paragraph 2 and therefore denies same.
3. Applicant has insufficient information as to the allegations set forth in Paragraph 3 and therefore denies same.
4. Applicant has insufficient information as to the allegations set forth in Paragraph 4 and therefore denies same.
5. Applicant agrees that the Opposition has been filed with respect to Ser. No. 85/790,557.
6. Applicant admits Paragraph 6.
7. Applicant has insufficient information as to the allegations set forth in Paragraph 7 and therefore denies same.
8. Applicant has insufficient information as to the allegations set forth in Paragraph 8 and therefore denies same.

9. Applicant has insufficient information as to the allegations set forth in Paragraph 9 and therefore denies same.

10. Applicant denies the allegations set forth in Paragraph 10.

11. Applicant denies the allegations set forth in Paragraph 11.

### **AFFIRMATIVE DEFENSES**

12. The marks are not confusingly similar. Applicant's mark is visually and phonetically distinct from that of Opposer and therefore, the marks are not likely to be confused. Applicant's mark is comprised of three syllables, whereas Opposer's mark is comprised of two.

13. The Parties' respective marks do not share a similar commercial meaning, and thus are not likely to cause confusion. When translated from Spanish to English, GALLO means "rooster/chicken/hen" and GALOPE means "gallop."

14. Under the doctrine of foreign equivalents, the different meanings of the marks are significant when assessing a likelihood of confusion.

15. Spanish is a language known to numerous people in the United States and the different meanings of GALLO and GALOPE will be significant in a likelihood of confusion analysis.

16. Opposer's mark is comprised of the term GALLO which refers to its corporate name, E. & J. Gallo Winery, and is the surname of the founders, Ernest and Julio Gallo. Applicant's mark GALOPE means "gallop." Accordingly, the commercial impressions presented by each of the Parties' marks are highly dissimilar.

17. The Parties' respective goods are not confusingly similar. Applicant's mark will be used in connection with tequila and tequila cocktails, which are distinct from Opposer's wines.

18. Opposer's mark was not cited as a bar to registration of the contested application. It is the opinion of the Trademark Office that the two marks may peacefully co-exist.

19. Opposer's mark currently co-exists on the Federal Register with numerous third party "GAL" and "GALL" marks in connection with alcoholic beverages, including wine and tequila. Applicant's mark should likewise be allowed to co-exist.

20. Opposer's mark currently peacefully co-exists with several "GALLOP" and "GALOPE" marks being used for identical goods, namely, wines, in U.S. commerce. Applicant's mark, which covers goods that are not identical to wines, should likewise be allowed to co-exist.

WHEREFORE, it is respectfully requested that the Notice of Opposition be dismissed with prejudice.

Dated: April 8, 2014

Respectfully submitted,

/s/ Julianne Abelman

JULIANNE ABELMAN  
ERICA R. HALSTEAD

**ABELMAN FRAYNE & SCHWAB**  
**666 Third Avenue**  
**New York, New York 10017**  
**212-949-9022**

**Attorneys for Applicant**

### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **ANSWER TO THE NOTICE OF OPPOSITION** was filed via ESTTA, and a service copy was sent via first class mail this 8th day of April 2014 upon the following:

Steven M. Weinberg  
HOLMES WEINBERG, PC  
30765 Pacific Coast Highway, Suite 411  
Malibu, CA 90265

s/*Erica Halstead*/  
ERICA R. HALSTEAD